

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
PUHI SEWER & WATER CO., INC.)
For Expansion of Its Service)
Territory.)

DOCKET NO. 2008-0130

DECISION AND ORDER

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DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

PUBLIC UTILITIES
COMMISSION

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FILED

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In the Matter of the Application of)
 PUHI SEWER & WATER CO., INC.)
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Docket No. 2008-0130

DECISION AND ORDER

By this Decision and Order, the commission approves PUHI SEWER & WATER CO., INC.'s ("Applicant") request for commission approval to expand its existing service territory to provide wastewater collection and treatment services to the Koamalu Plantation development, and to amend its Rules and Regulations to reflect the expanded service territory, pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5.

I.

Background

Applicant, a Hawaii corporation, is a wholly-owned subsidiary of Grove Farm Properties, Inc., which is in turn a wholly-owned subsidiary of Grove Farm Company, Inc. In October 1993, Applicant was granted a certificate of public convenience and necessity ("CPCN") to operate as a public utility.¹ Under its CPCN, Applicant provides wastewater collection and treatment services to its residential, commercial,

¹See Interim Decision and Order No. 12654, filed on October 7, 1993, in Docket No. 7576.

and industrial customers located in the Lihue/Puhi areas on the island of Kauai. In addition, Applicant provides effluent to the Puakea Golf Course.

A.

Application

On June 24, 2008, Applicant filed an application seeking commission approval to: (1) expand its existing service territory to provide wastewater collection and treatment services to the Koamalu Plantation development; and (2) amend its Rules and Regulations to reflect the expanded service territory.² According to Applicant, it is "fit, willing, and able to provide the expanded wastewater collection and treatment [] services to Koamalu Plantation, and the provision of these services is required by the present and future public convenience and necessity."³

Specifically, Applicant seeks commission approval to expand its service territory to provide wastewater collection and treatment service to the Koamalu Plantation, located or to be located on a portion of Tax Map Key number (4)3-8-005:022. According to Applicant, Koamalu Plantation is a planned

²Application, Exhibits A and B, Verification, Certificate of Service, filed on June 24, 2008 (collectively, "Application"). Applicant served copies of the Application on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this docket pursuant to HRS § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). No persons moved to intervene in this proceeding.

³See Application at 5.

development consisting of approximately 220 multi-family residential units, which will be comprised of approximately sixty two-bedroom units and 160 three-bedroom units, together with associated common areas. "Based on an estimated average use of 250 gallons per day ("gpd") of wastewater use per multi-family residential unit, Applicant estimates that the 220 multi-family residences within the Koamalu Plantation will utilize approximately 55,000 gpd of wastewater in the aggregate."⁴ The developer is expected to commence construction of the Koamalu Plantation in or around October 2009, and occupancy is expected to begin in or around June 2011.

Applicant states that the developer of the Koamalu Plantation requested that Applicant provide service for the proposed development, and that based on the need for service and the nearby location of the development to its existing service territory, Applicant is willing to provide such service. Further, Applicant states that it is unaware of any other provider of wastewater collection and treatment services, publicly or privately owned, that is willing or able to service the proposed development at this time or in the near future.

According to Applicant, it "is or will be able" to provide service to the Koamalu Plantation without: (1) detriment to the level and quality of service being provided to its existing service territory; and (2) any negative rate impacts to its current customers. In addition, Applicant states that it

⁴Id. at 3.

"has or will have sufficient capacity to handle the wastewater collection and treatment service needs of its existing territory and Koamalu Plantation if and when needed."⁵

Applicant asserts that service will be provided to Koamalu Plantation through a pump station, transmission lines, and appurtenant equipment installed or to be installed by the developer of the plantation, to connect Applicant's facilities to the proposed development. Applicant represents that the facilities and equipment installed by the developer outside of the development will ultimately be dedicated and transferred to Applicant. According to Applicant, revenues expected to be generated from Koamalu Plantation customers should offset any expenses incurred by Applicant in connection with the expansion. Furthermore, "Applicant will not be required to pay for additional upgrades to its existing wastewater collection and treatment service system, if any, due to the expansion of the service territory to include Koamalu Plantation."⁶

In support of its Application, Applicant states that it: (1) is conveniently situated to satisfy the service needs of the Koamalu Plantation; (2) has the requisite experience, capability, facilities, and resources to sufficiently serve customers in the proposed expanded area; and (3) is financially and otherwise fit to provide safe and reliable services to the Koamalu Plantation "all without detriment to the level and

⁵Id. at 4.

⁶Id.

quality of service being provided to its existing service territory, and without any negative rate impact on Applicant's current users."⁷

Furthermore, Applicant states that no amendments to its tariffed rates are required. However, if the Application is approved, Applicant proposes to amend and replace Exhibit A attached to its existing Rules and Regulations with the drawing attached as Exhibit B to this Application. To this end, Applicant proposes to file revised tariff sheets of its existing Rules and Regulations to reflect the above changes and Applicant's revised service territory.

B.

Consumer Advocate's Statement of Position

On December 23, 2008, the Consumer Advocate filed its Statement of Position ("Statement of Position") in which it states that it does not object to commission approval of the Application.

In reviewing Applicant's request for commission approval to expand its service territory, the Consumer Advocate considered: (1) whether Applicant has the ability to provide wastewater service to customers in its current service territory, as well as the Koamalu Plantation; and (2) what effect the expansion will have on the existing rates charged for the wastewater service provided to Applicant's existing customers.

⁷Id. at 5.

With respect to whether Applicant has the ability to provide service to Koamalu Plantation, the Consumer Advocate states that Applicant appears to have "sufficient capacity to serve both its existing customers and the Koamalu Plantation development."⁸ This position is based on Applicant's representation set forth in its last rate case proceeding (i.e., Docket No. 2006-0423) that it has the ability to treat 1,000,000 gpd of wastewater flow and Applicant's estimation, in this proceeding, that the average daily wastewater flow for the Koamalu Plantation will be approximately 55,000 gpd. The Consumer Advocate notes that in Docket No. 2006-0423, "it was stipulated that there was excess capacity of the Company's treatment plant, approximately 580,300 gpd or 58%."⁹ Moreover, according to the Consumer Advocate, "[r]ecent wastewater flow information from February to November 2008 provided by Puhi also indicates that the Company's facilities continue to have sufficient capacity as the average daily wastewater flow treated is approximately 322,419 gpd."¹⁰

With respect to the effect the expansion would have on existing customers, the Consumer Advocate states that it does not appear that Applicant's ratepayers will be negatively impacted by the proposed expansion. This position is based on the following:

- The facilities necessary to connect Applicant's system to the Koamalu Plantation will be installed by

⁸See Statement of Position at 4.

⁹Id. (footnotes and text therein omitted).

¹⁰Id. (footnote and text therein omitted).

the developer. No change to Applicant's net plant value for ratemaking purposes would result since these facilities will be dedicated to Applicant, which should be reflected as a contribution-in-aid of construction ("CIAC").

- According to Applicant and consistent with its CIAC Rule 12, Applicant will not be required to pay for additional upgrades to its existing system, if any, are necessary due to the expansion of its service territory.
- Applicant projects that revenues collected from customers of the Koamalu Plantation development should offset any expenses incurred by Applicant in connection with the expansion.

II.

Discussion

A.

Expanded Service Territory

HRS § 269-7.5 states, in relevant part:

(a) No public utility, as defined in section 269-1, shall commence its business without first having obtained from the commission a certificate of public convenience and necessity. Applications for certificates shall be made in writing to the commission and shall comply with the requirements prescribed in the commission's rules. The application shall include the type of service to be performed, the geographical scope of the operation, the type of equipment to be employed in the service, the name of competing utilities for the proposed service, a statement of its financial ability to render the proposed service, a current

financial statement of the applicant, and the rates or charges proposed to be charged including the rules and regulations governing the proposed service.

. . . .

(c) A certificate shall be issued to any qualified applicant, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the terms, conditions, and rules adopted by the commission, and that the proposed service is, or will be, required by the present or future public convenience and necessity; otherwise the application shall be denied. Any certificate issued shall specify the service to be rendered and there shall be attached to the exercise of the privileges granted by the certificate at the time of issuance and from time to time thereafter, such reasonable conditions and limitations as a public convenience and necessity may require. The reasonableness of the rates, charges, and tariff rules and regulations proposed by the applicant shall be determined by the commission during the same proceeding examining the present and future conveniences and needs of the public and qualifications of the applicant, in accordance with the standards set forth in section 269-16.

. . . .

HRS § 269-7.5 (a) and (c). As Applicant's authority pursuant to its CPCN does not currently authorize it to provide wastewater collection and treatment services to the Koamalu Plantation development, commission approval is required to amend Applicant's service territory to include the development.

Pursuant to HRS § 269-7.5, the commission finds that Applicant is fit, willing, and able to provide the expanded wastewater collection and treatment service to the expanded service area, as shown in Exhibit B to the Application, and that the provision of these services is required by the present or future public convenience and necessity. Applicant is able, or

will be able, to provide wastewater utility services to the Koamalu Plantation, and it will be able to provide such service without detriment to the level and quality of service currently being provided to its existing customers.

The record indicates that Applicant's system is able to treat 1,000,000 gpd of wastewater flow. Accordingly, Applicant states, and the Consumer Advocate agrees, that it has sufficient capacity to serve both its existing customers and the Koamalu Plantation development.

In addition, Applicant will not incur the costs of installing any additional pumps, transmission lines, appurtenant equipment, or any additional upgrades to its system resulting from the expansion of its service territory. The revenues generated by the Koamalu Plantation development are expected to offset any expenses incurred by Applicant in connection with the expansion. Therefore, there will be no change to Applicant's net plant value for ratemaking purposes and existing ratepayers will not be negatively impacted by the expansion.

Finally, the residents of the Koamalu Plantation development must be provided a means to access wastewater services, and the commission is unaware of any other service provider willing or able to serve the proposed development.

Based on the foregoing, the commission concludes that Applicant's request for commission approval to expand its existing service territory should be approved.

B.

Amendment of Rules and Regulations

Applicant states that if its Application is approved, it will file revised tariff sheets of its Rules and Regulations to reflect the changes to Applicant's revised service territory. Given the commission findings above, the commission concludes that Applicant should promptly file revised tariff sheets to reflect the changes to Applicant's service territory, as set forth herein.

III.

Orders

THE COMMISSION ORDERS:

1. Applicant's request for commission approval to expand its existing service territory to provide wastewater collection and treatment services to the Koamalu Plantation development, as reflected in Exhibit B attached to the Application, is approved.

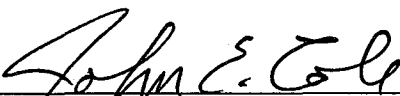
2. Applicant shall promptly file with the commission revised tariff sheets of its Rules and Regulations to reflect the changes to Applicant's service territory. The revised sheets will take effect upon filing. Failure to comply with this requirement may constitute cause to void this Decision and Order, and may result in further regulatory action, as authorized by law.


3. Upon Applicant's compliance with Ordering Paragraph No. 2, above, this docket will be closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii FEB 19 2009.

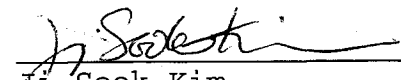
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Ji Sook Kim
Commission Counsel

2008-0130.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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